

Disciplinary Actions

Disciplinary Actions Reported For June

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of May 2001.

Firms Expelled, Individual Sanctioned

Falcon Trading Group, Inc. (CRD #30361, Boca Raton, Florida), Sovereign Equity Management Corp. (CRD #20016, Deerfield Beach, Florida), and Glen Thomas Vittor (CRD #1565323, Registered Principal, Deerfield Beach, Florida) were fined \$1 million, jointly and severally. In addition, the firms were expelled from NASD membership and Vittor was barred from association with any NASD member in any capacity. The sanctions were based on findings that the respondents effected short sales for the firms' own accounts and failed to make an affirmative determination that the firms could borrow the securities or otherwise provide for delivery of the securities by the settlement date. The findings also stated that the respondents, in cooperation with others, attempted to obtain stock at below-market prices through the use of threats and coercion, and that, through naked short sales and extortion, the respondents participated in a manipulation of the market for those securities. **(NASD Case #CAF980002)**

Firm Fined, Individual Sanctioned

Heritage West Securities, Inc. (CRD #30718, Scottsdale, Arizona) and Craig Orin Jolly (CRD #1380769, Registered Principal, Phoenix, Arizona) submitted an Offer of Settlement in which they were censured and fined \$15,000, jointly and severally. Jolly was also required to requalify by exam as a general securities principal within 120 days of the Order Accepting the Offer of Settlement. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Jolly, failed to supervise the activities of the firm's representatives involved in a private placement offering in a manner reasonably designed to achieve compliance with Securities and Exchange Commission (SEC) rules. The findings also stated that Jolly accepted loans made with funds raised in the private placement offering when he knew, or should have known, that the use of the offering proceeds in this manner was materially inconsistent with representations in the offering memorandum pertaining to the use of proceeds. **(NASD Case #C3A990035)**

Firm Fined

Hornblower & Weeks, Inc. (CRD #4683, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$47,500, which includes disgorgement in the amount of \$7,500 in revenue improperly received by the firm as a result of the activities of the brokers whose registrations were inactive. Without admitting or denying the allegations, the firm consented to

the described sanctions and to the entry of findings that it failed to report to the NASD customer complaints that it had received, and that it had taken disciplinary action that led to the termination of registered representatives. The findings also stated that the firm failed to report a settlement with a public customer in the amount of \$30,000 and to timely report to the NASD a written customer complaint that it received. In addition, the NASD found that the firm failed to disclose, and to clearly disclose, the markup or markdown on confirmations of principal transactions. The NASD also found that the firm permitted individuals to act as registered persons when their registration status with the NASD was inactive due to their failure to comply with the Regulatory Element of NASD's Continuing Education Requirement. Furthermore, the NASD found that the firm's employees failed to attend its annual compliance meeting, and that the firm failed to either obtain a copy of the Form U-5 filed by the most recent previous employer or to demonstrate that it had made reasonable efforts to do so. **(NASD Case #C10010051)**

Individuals Barred Or Suspended

Ghassan William Abdallah (CRD #2962504, Registered Representative, Atlantic, Iowa) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$19,600, which includes disgorgement of commissions earned of \$17,100, and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification.

Without admitting or denying the allegations, Abdallah consented to the described sanctions and to the entry of findings that he participated in outside business activities without providing prior written notice to, and receiving approval from, his member firm.

Abdallah's suspension began June 4, 2001, and will conclude at the close of business August 2, 2001. **(NASD Case #C04010017)**

Don Jackson Akin (CRD #3108018, Registered Representative, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Akin consented to the described sanction and to the entry of findings that he posted false messages and baseless price predictions in an Internet chat room concerning a security that he owned. **(NASD Case #C3A010014)**

Steven Ballinger (CRD #2443694, Registered Representative, Orlando, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 days. In light of the financial status of Ballinger, no monetary sanction has been imposed. Without admitting or denying the allegations, Ballinger consented to the described sanction and to the entry of findings that he participated in a private securities transaction and failed to provide prior notification to his member firm of his participation, and did not cause the transaction to be carried on the books and records of the firm.

Ballinger's suspension began May 21, 2001, and will conclude at the close of business June 19, 2001. **(NASD Case #C07010018)**

James Ralph Betts, Jr. (CRD #20678, Registered Principal, San Rafael, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Betts consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written or oral notification to his member firm. **(NASD Case #C02010017)**

Scott Joseph Brennan (CRD #1415232, Registered Representative, Manilus, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brennan consented to the described sanction and to the entry of findings that he withdrew \$30,789.32 from a public customer's variable annuity and converted the funds for his own use and benefit. **(NASD Case #C11010018)**

John Francis Brown (CRD #2692039, Registered Representative, Lake Mary, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Brown failed to respond to NASD requests for information. **(NASD Case #C07000013)**

Michael John Brown (CRD #1228489, Registered Representative, Burlington, New Jersey) submitted a Letter

of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brown consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to provide his member firm with prior written notice describing the transactions, his proposed role therein, and stating whether he had received, or might receive, selling compensation in connection with the transactions. **(NASD Case #C9A010009)**

Scott Robert Brown (CRD #2822289, Registered Representative, Provo, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brown consented to the described sanction and to the entry of findings that he falsified information and forged the signatures of public customers on retirement contribution forms and submitted them on behalf of the customers to his member firm without the authorization of the customers. The findings also stated that Brown submitted to his member firm a false variable annuity application for a voluntary 403(b) contribution on behalf of a new employee who was a fictitious person. **(NASD Case #C3A010013)**

Bradford Lee Buckler (CRD #2250998, Registered Representative, Kansas City, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500, which includes disgorgement of the balance of unlawful profits of \$2,315.83, and suspended from

association with any NASD member in any capacity for 60 days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Buckler consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Buckler's suspension began June 4, 2001, and will conclude at the close of business August 8, 2001. **(NASD Case #C04010018)**

William Lawson Campbell (CRD #2821539, Registered Principal, Auburn, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Campbell consented to the described sanction and to the entry of findings that he solicited and received \$10,000 from a public customer to be invested in mutual funds and other securities through an investment club and promised a return of 18% per annum on the investments. The findings also stated that no investment club existed and, instead, Campbell deposited the funds into his personal bank account, converting some or all of it to his own use and benefit. **(NASD Case #C3B010008)**

Frank Anthony Cardia, Jr. (CRD #2808582, Registered Representative, Bogota, New Jersey) was barred from association with any NASD member in any capacity, and fined \$50,000 for falsifying records concerning a customer's account and for providing false information to the NASD. Cardia was also

suspended from association with any NASD member in any capacity for six months, fined \$30,000 for pre-selling the aftermarket in a stock, and ordered to pay \$8,637.95, plus interest, in restitution to a customer for failing to execute a limit order. The sanctions were based on findings that Cardia intentionally falsified a public customer's account records by falsely representing that another individual was the account executive on the customer's account and providing false testimony to the NASD during an on-the-record interview. Cardia also violated the antifraud provisions of the securities laws by utilizing a tie-in arrangement in which the customer had to agree to purchase aftermarket shares of stock in order to purchase shares in an initial public offering (IPO), and failed to follow a customer's instruction to sell a security. In addition, the NASD found that Cardia falsely stated in a written response to an NASD request for information that no customer had complained that he failed to place a sell limit order.

The bar became effective April 23, 2001. **(NASD Case #C9B000007)**

Marco Louis Carucci (CRD #1951639, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Carucci consented to the described sanction and to the entry of findings that he failed to respond to NASD requests to appear for an on-the-record interview. The findings also stated that Carucci engaged in outside business activities and private securities transactions without prior written notice to, or approval

from, his member firm. **(NASD Case #C9B010028)**

Joseph Matthew Chelales (CRD #2720791, Associated Person, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity, including clerical or ministerial functions. Without admitting or denying the allegations, Chelales consented to the described sanction and to the entry of findings that he failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #C10010048)**

Stephen Walter Cline (CRD #2623218, Registered Representative, Windsor, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cline consented to the described sanction and to the entry of findings that he applied for loans in the names of public customers who were clients of other agents, using identification he created from information in the files of his member firm. **(NASD Case #C3A010012)**

Cyril Joseph Denn (CRD #1045129, Registered Representative, Mankato, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$4,000 and suspended from association with any NASD member in any capacity for 20 business days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Denn consented to the described

sanctions and to the entry of findings that he received a \$200,000 check from a public customer intended for the purchase of an annuity and, without the customer's knowledge or consent, misused \$4,000 of the funds.

Denn's suspension began June 4, 2001, and will conclude at the close of business June 29, 2001. **(NASD Case #C04010019)**

Anura Mohan DeSilva (CRD #1438319, Registered Representative, Simi Valley, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, DeSilva consented to the described sanction and to the entry of findings that, in connection with the purchase and sale of variable annuity products through his member firm, DeSilva induced customers to render payment of unearned fees in the amount of at least \$32,600, directly to him. According to the findings, DeSilva misled the customers to believe that the unearned fees were his sole source of compensation for the transaction when, in fact, the unearned fees were in addition to commissions paid to him by the issuers, which reduced the market value of the customers' investments. In addition, the NASD found that DeSilva failed to inform his member firm that he was charging and receiving fees directly from customers in addition to commissions paid on the annuity transactions. **(NASD Case #C02010007)**

Michael DiFrancesca (CRD #2315616, Registered Representative, East Northport, New York) was fined \$25,000, barred from association with any

NASD member in any capacity, and ordered to pay \$386,114.78, plus interest, in restitution to public customers. The sanctions were based on findings that DiFrancesca effected transactions in the accounts of public customers without their authorization. The findings also stated that DiFrancesca actively solicited public customers to purchase securities without disclosing that the issuers had received going concern opinions from their auditors. The NASD also found that DiFrancesca made specific price predictions without having a reasonable basis for making such representations. **(NASD Case #CAF000038)**

John Doukas (CRD #862177, Registered Representative, North Salem, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Doukas consented to the described sanction and to the entry of findings that he permitted a person subject to statutory disqualification to engage in the activities of his member firm. The findings also stated that Doukas engaged in manipulative, deceptive, and fraudulent practices in connection with the purchase and sale of securities by implementing and enforcing a "no net selling" policy and failed to communicate this policy to the firm's customers. The NASD also found that Doukas failed to carry out his supervisory duties, and failed to establish, maintain, and enforce a supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. Doukas ignored "red flag" warnings of problematic conduct committed by registered

representatives and failed to take appropriate action designed to prevent future violations or to properly discipline the registered representatives. Moreover, the NASD found that Doukas failed to establish, maintain, and enforce written supervisory procedures that assigned registered representatives to a designated principal for supervision and designated certain persons as supervisors or principals who did not function in those capacities. In addition, the NASD found that Doukas failed to file any customer complaint information with the NASD despite the fact that numerous customer complaints were received by his firm. **(NASD Case #C10000026)**

Claude Anthony Eatman, Jr. (CRD #1899070, Registered Principal, Jersey City, New Jersey) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any registered capacity for two years, and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, Eatman consented to the described sanctions and to the entry of findings that he executed unauthorized trades in the account of a public customer. The findings also stated that Eatman submitted change of address forms in regard to the accounts of public customers to his member firm, without the customers' knowledge or consent, so that the firm's records reflected fictitious addresses. The NASD also found that Eatman opened the account of one public customer and used an address at which the customer did not live.

Eatman's suspensions began May 21, 2001, and the suspension in any registered capacity will conclude at the close of business May 20, 2003. The suspension in any capacity will conclude at the close of business June 18, 2001. **(NASD Case #C10000185)**

Herbert Ernest Ellis (CRD #2783564, Registered Representative, Des Moines, Iowa) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,500, which includes disgorgement of \$1,000 in commissions earned, and suspended from association with any NASD member in any capacity for 30 days. The fine and disgorgement must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ellis consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prior written notice to, and receiving approval from, his member firm.

Ellis' suspension began May 21, 2001, and will conclude at the close of business June 19, 2001. **(NASD Case #C04010015)**

Scott Darren Fessler (CRD #2689471, Registered Representative, Valley Stream, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500, suspended from association with any NASD member in any capacity for 15 days, and ordered to pay \$5,117.91, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Fessler consented to the described sanctions and to the entry of findings that he sold shares of stock from a public

customer's account without the customer's knowledge and consent and used the proceeds to purchase other shares of stock for the customer's account, without the customer's knowledge or consent.

Fessler's suspension began June 4, 2001, and will conclude at the close of business June 18, 2001. **(NASD Case #C10010055)**

David Lloyd Foran (CRD #861746, Registered Principal, Royal Oak, Michigan) was fined \$35,000, suspended from association with any NASD member in any capacity for two years, and required to requalify before acting in any capacity requiring qualification. The fine must be paid before any application for reentry into the securities industry will be considered. The National Adjudicatory Council (NAC) imposed the sanctions following an appeal of a December 1999 Office of Hearing Officers decision. The sanctions are based on findings that Foran misappropriated more than \$5,000 in commissions from his firm's commission account and misapplied the funds, thereby converting the funds to his own use and benefit.

Foran's suspension began June 4, 2001, and will conclude at the close of business June 3, 2003. **(NASD Case #C8A990017)**

Emanuel Richard Giglio (CRD #2457836, Registered Representative, Coronado, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 90 days. Without admitting or denying the allegations, Giglio consented to the described sanction and to the entry of findings that he

engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Giglio's suspension began June 4, 2001, and will conclude September 1, 2001. **(NASD Case #C02010016)**

Perry Andrew Groves (CRD #1274576, Registered Principal, Troy, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to disgorge \$8,764.41, plus interest, in commissions to public customers. Satisfactory proof of payment of the disgorgement, with interest, must be provided before reassociating with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Groves consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers away from his member firm and failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions. **(NASD Case #C8B010009)**

Maximo Justo Guevara (CRD #1205879, Registered Representative, Philadelphia, Pennsylvania) was censured, fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$13,992, plus interest, in restitution to a public customer. The SEC affirmed the sanctions following appeal of a January 1999 NAC decision. The sanctions were based on findings that Guevara made unsuitable recommendations in connection with sales of partnership interests

to retail customers. Guevara also engaged in private securities transactions outside the regular course or scope of his employment without providing written notice to his member firm.

Guevara has appealed this action to the Third U.S. Court of Appeals and the sanctions, other than the bar, are not in effect pending consideration of the appeal. **(NASD Case #C9A970018)**

Kevin Koehler Handley (CRD #1920007, Registered Representative, Bristol, Rhode Island) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$35,000, which includes the disgorgement of \$30,000 in commissions earned, and suspended from association with any NASD member in any capacity for 90 days. Without admitting or denying the allegations, Handley consented to the described sanctions and to the entry of findings that, while registered with a member firm, he entered into an arrangement with another registered representative at another member firm involving the transfer of customer accounts to the other firm. The representative paid Handley in excess of \$30,000 in commissions for mutual fund transactions executed by the customers that were recommended by Handley. The findings also stated that in connection with the aforementioned activity, Handley engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Handley's suspension began May 21, 2001, and will conclude at the close of business August 21, 2001. **(NASD Case #C11010016)**

Kenneth Edward Hetlinger (CRD #1260242, Registered Representative, Mundelein,

Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Hetlinger caused over \$74,000 to be wire-transferred from the account of a public customer to his attorney's account and used the funds for either his own benefit or for some purpose other than the benefit of the customer, without the customer's knowledge or consent. Hetlinger also failed to respond to NASD requests for documents and information. **(NASD Case #C8A000072)**

Terrence Louis Killea (CRD #2310356, Registered Representative, Coventry, Rhode Island) was barred from association with any NASD member in any capacity and ordered to pay \$84,500, plus interest, in restitution to public customers. The sanctions were based on findings that Killea received \$84,500 in checks from public customers to invest in a high yield investment or an IPO, failed to invest the funds as directed, and used the money for his own use and benefit. **(NASD Case #C11000001)**

Kenneth Craig Krull (CRD #730915, Registered Representative, Bellingham, Washington) was censured, fined \$20,000, barred from association with any NASD member in any principal or supervisory capacity, and suspended from association with any NASD member in any capacity for one year. In addition, Krull was required to requalify as a general securities representative prior to reassociating with any NASD member and ordered to pay \$81,705 in restitution to public customers. The Ninth U.S. Court of Appeals affirmed the sanctions following appeal of a December 1998 SEC decision. The sanctions

were based on findings that Krull recommended unsuitable mutual fund switches in the accounts of public customers without having reasonable grounds for believing that such transactions were suitable for the customers in view of the frequency of the transactions, the type of transaction being recommended, and the customers' financial situations, circumstances, and needs.

Krull's bar in any principal or supervisory capacity became effective July 25, 1997. Krull's suspension in any capacity began June 4, 2001, and will conclude at the close of business June 3, 2002. **(NASD Case #C3B940028)**

Peter Aristides Ladas (CRD #2145234, Registered Representative, Branchburg, New Jersey) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for six months. In light of the financial status of Ladas, no monetary sanction has been imposed. Without admitting or denying the allegations, Ladas consented to the described sanction and to the entry of findings that he completed, signed, and submitted to his member firm a life insurance policy reinstatement form that contained false information.

Ladas' suspension began May 21, 2001, and will conclude at the close of business November 20, 2001. **(NASD Case #C9B010012)**

Mark Chengpin Lee (CRD #2543839, Registered Principal, Rowland Heights, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any principal capacity for one and a half years, and as a

condition to re-entering the securities business in any principal capacity, must requalify by exam as a general securities principal. Without admitting or denying the allegations, Lee consented to the described sanctions and to the entry of finding that a former member firm, acting through Lee, failed to supervise a registered representative adequately and properly to assure compliance with applicable rules and regulations, and failed to adopt, implement, and maintain adequate written supervisory procedures reasonably designed to detect and prevent unauthorized trading.

Lee's suspension began May 21, 2001, and will conclude at the close of business November 20, 2002. **(NASD Case #C02010008)**

Everton Clyde Lewis (CRD #2548000, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five days. Without admitting or denying the allegations, Lewis consented to the described sanctions and to the entry of findings that he failed to execute a limit sell order from a public customer in a timely manner pursuant to the customer's instructions, resulting in the customer receiving a less favorable price for his order.

Lewis' suspension began June 4, 2001, and concluded at the close of business June 8, 2001. **(NASD Case #C10010057)**

Robert J. Lewis, Jr. (CRD #2530590, Registered Representative, Rego Park, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Lewis willfully

failed to disclose material information on a Form U-4. **(NASD Case #C10000197)**

James Edgar Lingo (CRD #2889448, Registered Principal, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to cooperate fully with the NASD in regard to matters relating to the offer and sale of shares of a private placement. Without admitting or denying the allegations, Lingo consented to the described sanctions and to the entry of findings that he made baseless price predictions, other material misrepresentations, and material omissions of adverse business facts to public customers in the offer and sale of a private placement. The findings also stated that Lingo effected securities transactions for public customers away from his member firm and failed to provide prior written notification to, or to receive written approval from, his member firm before effecting the transactions. **(NASD Case #C10010050)**

Steven John Manocchia (CRD #1010935, Registered Representative, Smithfield, Rhode Island) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Manocchia consented to the described sanction and to the entry of findings that he misappropriated funds totaling \$8,198.44 in proceeds from a loan taken on a variable life insurance policy held in the name of a public customer and caused the loan check to be issued and sent to his address. The findings also stated that Manocchia forged the customer's signature on the check,

added his own signature, and deposited the check into his own bank account, converting and misappropriating \$8,198.44 for his own use and benefit. **(NASD Case #C11010007)**

Erik Joseph Matz (CRD #2715303, Registered Representative, Hicksville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Matz consented to the described sanctions and to the entry of findings that he exercised discretionary authority in the account of a public customer without the customer's prior written authorization and his member firm's written acceptance of the account as discretionary.

Matz's suspension began May 21, 2001, and will conclude at the close of business June 19, 2001. **(NASD Case #C10010052)**

Maureen Ann McGowan (CRD #2274365, Registered Representative, Seattle, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity and ordered to pay \$40,866.46, plus interest, in restitution to a public customer. Satisfactory proof of restitution, with interest, must be provided before reassociating with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, McGowan consented to the

described sanctions and to the entry of findings that she obtained \$335,000 from a public customer and converted the funds to her own use and falsely represented to the customer that she had purchased municipal bonds for the customer's account. The findings also stated that, in order to conceal her conversion, McGowan caused checks totaling \$27,556 to be issued to the customer, falsely representing to the customer that the checks represented interest on the bonds she had purchased when, in fact, the checks were drawn on the customer's margin account. In addition, the NASD found that McGowan, in order to conceal her conversion and to impede an NASD investigation, falsely stated to NASD Regulation staff members that she had used funds from sources, other than the public customer, to repay certain debts. The NASD also found that McGowan created and delivered to the NASD false documents purporting to be bank statements and checks. **(NASD Case #3B010009)**

Andrew Benson Melville (CRD #1427201, Registered Principal, Altamonte Springs, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Melville failed to respond to NASD requests for information. **(NASD Case #C07000088)**

Russell Eric Montgomery, Jr. (CRD #1012980, Registered Representative, Tampa, Florida) was fined \$24,147.65 (including \$4,147.65 in ill-gotten commissions) and suspended from association with any NASD member in any capacity for one year. The sanctions were based on findings that Montgomery engaged in private securities

transactions, for compensation, without giving his member firm prior written notice and without receiving prior written approval from the firm.

Montgomery's suspension began May 21, 2001, and will conclude at the close of business May 21, 2002. **(NASD Case #C07000058)**

Petra Moreno (CRD #1738689, Registered Representative, El Paso, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Moreno received checks totaling \$427.46 representing payments for a life insurance policy the customer purchased, cashed the checks, and used the funds for her own use and benefit without the authorization, knowledge, or consent of the customer. Moreno also failed to respond to NASD requests for information. **(NASD Case #C06000032)**

Luis Valente Orozco (CRD #3052545, Registered Representative, Chula Vista, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. The sanction was based on findings that Orozco engaged in an intentional and premeditated course of improper conduct in that he submitted false annuity applications and misused customer funds to settle the bogus transactions in order to inflate artificially his sales production statistics and to receive unearned commissions. According to the findings, to conceal his wrongdoing, Orozco misused and co-mingled funds in customers' accounts, forged a branch manager's signature on official checks, improperly obtained his

employer's signature guarantee stamp, and used it to provide false signature guarantees. The findings also stated that, to further conceal his wrongdoing, Orozco opened an annuity account under a fictitious name, signed the false name to account documents, and funded the account by withdrawing funds, without authorization, from a certificate of deposit owned by a bona fide customer, and attempted to convert official checks and a check from an insurance company, all referencing the fictitious customer, into two separate official checks with a remitter to a bona fide customer. Moreover, the NASD determined that Orozco persisted in his scheme and attempted to thwart its detection by using multiple branch offices after facing questions from a branch manager. **(NASD Case #C02010014)**

Cery Bradley Perle (CRD #2306492, Registered Principal, Corona Del Mar, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Perle received checks from public customers totaling \$30,000 for the purchase of stock in an IPO prior to the registration statement for the offering becoming effective. Furthermore, Perle began aftermarket trading in the stock before completing the distribution of the IPO in violation of the NASD's Free-Riding and Withholding Interpretation. **(NASD Case #C01000020)**

Jason Earl Pleggenkuhle (CRD #2706402, Registered Representative, Urbandale, Iowa) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Pleggenkuhle

consented to the described sanction and to the entry of findings that he received a \$125 check representing a refund for an overpayment by a public customer for her Individual Retirement Account (IRA), and executed redemption orders totaling \$5,000 in the account of a public customer. The NASD found that, without the knowledge or consent of the customer, Pleggenkuhle affixed her signature to the checks, cashed the checks, and converted the funds to his own use and benefit. The findings also stated that Pleggenkuhle initiated a \$1,000 withdrawal from a public customer's bank account, and without the customer's knowledge or consent, affixed the customer's signature to the check, and by cashing the check, misused the funds. **(NASD Case #C04010016)**

Eric Riedman (CRD #833344, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$55,000 in restitution to a public customer. Proof of restitution shall be a prerequisite before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Riedman consented to the described sanctions and to the entry of findings that he received \$55,000 in funds from a public customer with instructions to place the funds in limited partnerships. The NASD found that Riedman instead placed the funds in his bank account, provided the customer with interest on the funds over the course of the following two years, and then placed the funds into limited partnerships. Riedman also failed to respond to

NASD requests for information. **(NASD Case #C9B010033)**

Kenneth Rivera (CRD #4047245, Associated Person, Cos Cob, Connecticut) was barred from association with any NASD member in any capacity. The sanction was based on findings that Rivera willfully failed to disclose a material fact on his Form U-4 and failed to respond to NASD requests for information. **(NASD Case #C10000209)**

James Ernest Ross (CRD #2350497, Registered Representative, Longwood, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,250, which includes disgorgement of \$2,250 in commissions, and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ross consented to the described sanctions and to the entry of findings that he participated in a private securities transaction and failed to provide prior notification to his member firm of his participation, and did not cause the transaction to be approved and carried on the books and records of the firm.

Ross' suspension began May 21, 2001, and will conclude at the close of business June 19, 2001. **(NASD Case #C07010019)**

Gerard Mauro Roth (CRD #2498720, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD

member in any capacity and ordered to cooperate fully with the NASD in regard to matters relating to the offer and sale of shares in a private placement. Without admitting or denying the allegations, Roth consented to the described sanctions and to the entry of findings that he made material misrepresentations including baseless price predictions and material omissions of adverse business facts to public customers in the offer and sale of a private placement. The findings also stated that Roth effected securities transactions for public customers away from his member firm and failed to provide written notification to, or to obtain written approval from, his member firm prior to effecting the transactions. The NASD also found that Roth failed to respond to NASD requests for information and documentation and to appear for an on-the-record interview. **(NASD Case #C10010049)**

James Walter Rulison (CRD #1313251, Registered Representative, Canandaigua, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rulison consented to the described sanction and to the entry of findings that he misappropriated approximately \$2,101,000 belonging to public customers. **(NASD Case #C11010019)**

Larry Scott Savage (CRD #1322718, Registered Representative, Sandy, Utah) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. In light of the financial status of Savage, no monetary sanction has been

imposed. Without admitting or denying the allegations, Savage consented to the described sanction and to the entry of findings that he participated in private securities transactions, for compensation, without providing his member firm with prior written notice and without seeking, or receiving, permission from his member firm. The findings also stated that Savage participated in outside business activities without providing prompt written notice to his member firm. **(NASD Case #C3A010008)**

Francesco Anthony Scarso (CRD #2679981, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$8,000, suspended from association with any NASD member in any capacity for 30 business days, and ordered to requalify by exam as a general securities representative. If Scarso fails to requalify within 90 days from the date of the Order Accepting the Offer of Settlement, he may not thereafter be associated with any NASD member as a general securities representative until he passes the exam. Scarso was also required to pay \$27,000 in restitution to public customers. Without admitting or denying the allegations, Scarso consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without their authorization.

Scarso's suspension will begin June 18, 2001, and will conclude at the close of business July 30, 2001. **(NASD Case #C10000135)**

Wayne Norman Schwartz (CRD #2580456, Registered Representative, Austin, Texas) submitted a Letter of Acceptance,

Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Schwartz consented to the described sanctions and to the entry of findings that he caused the signatures of public customers in a single group plan to be applied on policy delivery receipts for life insurance policies without the customers' knowledge or consent. The NASD found that Schwartz submitted these receipts to his member firm in connection with the processing of these insurance policies.

Schwartz's suspension began May 21, 2001, and will conclude at the close of business July 2, 2001. **(NASD Case #C06010009)**

Robert Edmund Serio (CRD #1224555, Registered Representative, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$170,000, plus interest, in restitution to a family trust and individual members of the family. Satisfactory proof of payment of the restitution, with interest, must be provided before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Serio consented to the described sanctions and to the entry of findings that he made unauthorized transfers from the accounts of a family trust and individual members of the family totaling at least \$170,000 and misappropriated the proceeds for his own personal use and benefit. **(NASD Case #C11010015)**

James Raymond Sickler (CRD #2656670, Registered Representative, Miami, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Sickler failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #CMS000213)**

Bayard William Spector (CRD #2931747, Registered Principal, Miami, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Spector consented to the described sanction and to the entry of findings that he arranged to have an impostor take the Series 7 exam on his behalf. Spector also failed to appear before the NASD and give testimony in connection with an ongoing investigation. **(NASD Case #C07000095)**

Gretchen States (CRD #2832705, Registered Representative, Baton Rouge, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which she was suspended from association with any NASD member in any capacity for six weeks. In light of the financial status of States, no monetary sanction has been imposed. Without admitting or denying the allegations, States consented to the described sanction and to the entry of findings that she signed the names of public customers on an account application form, without the knowledge or consent of the customers.

States' suspension began May 7, 2001, and concluded at the close of business June 15, 2001. **(NASD Case #C05010023)**

Edward James Stock, Jr. (CRD #2379991, Registered Representative, Nesconset, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stock consented to the described sanction and to the entry of findings that he signed his name on customers' new account forms falsely representing that he was the customers' account executive when, in fact, another registered representative had introduced the customers' accounts to the member firm, thereby causing his firm to maintain inaccurate books and records. The findings also stated that Stock knowingly and improperly permitted the registered representative to use his account executive number for entering transactions in the customers' accounts, thereby causing his member firm to maintain inaccurate books and records. Stock also failed to respond to NASD requests for information. **(NASD Case #C9B010029)**

Todd Richard Stone (CRD #1923863, Registered Principal, Boca Raton, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Stone failed to respond to NASD requests for information. **(NASD Case #C07000085)**

Todd Richard Stone (CRD #1923863, Registered Principal, Boca Raton, Florida) was fined \$10,000 and suspended from association with any NASD member in all supervisory capacities for 30 business days for failing to amend a Form BD and for failing to designate an office of supervisory jurisdiction (OSJ); fined \$5,000 for failing to maintain

adequate written supervisory procedures; and barred from association with any NASD member in any capacity for failing to respond to NASD requests for information. The sanctions were based on findings that Stone, as his member firm's compliance officer, failed to amend the firm's Form BD and failed to designate an OSJ when his firm opened new branch offices or other business locations. The findings also stated that Stone failed to ensure that his firm amended its written supervisory procedures to designate as an OSJ each location that met the NASD definition, to designate appropriately registered principals in each OSJ, and to designate appropriately registered representatives or principals in each non-OSJ branch office with authority to carry out the supervisory responsibilities assigned to that office. The NASD also found that Stone failed to respond to NASD requests for information.

Stone's bar was effective April 27, 2001. **(NASD Case #C10000211)**

Hong Yi Sun (CRD #2286083, Registered Principal, Monterey Park, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any principal capacity for one and a half years and, as a condition to re-entering the securities business in any principal capacity, Sun must requalify by exam as a general securities principal. In light of the financial status of Sun, no monetary sanction has been imposed. Without admitting or denying the allegations, Sun consented to the described sanctions and to the entry of findings that a former member firm, acting through Sun, conducted a securities business

while failing to maintain its minimum required net capital. The findings also stated that Sun failed to supervise a registered representative adequately and properly to assure compliance with applicable rules and regulations, and failed to adopt, implement, and maintain adequate written supervisory procedures reasonably designed to detect and prevent unauthorized trading.

Sun's suspension began June 4, 2001, and will conclude at the close of business December 3, 2002. **(NASD Case # C02010009)**

John Anthony Thomas (CRD #2064972, Registered Representative, Charleston, West Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Thomas consented to the described sanction and to the entry of findings that he submitted to his member firm requests for loans against insurance policies owned by public customers, without the customers' knowledge or authorization. The findings also stated that Thomas obtained possession of loan checks issued to the customers totaling \$15,200, deposited the checks into a personal bank account, and used the funds for his own benefit. **(NASD Case #C9A010010)**

Thomas Nicholas Tillman (CRD #2618019, Registered Representative, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 60 days, and ordered to disgorge \$2,200, plus interest, in commissions to public customers. The fine payment and satisfactory

proof of payment of the disgorgement, plus interest, must be provided before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Tillman consented to the described sanctions and to the entry of findings that he sold or participated in the sale of promissory notes, for compensation, away from his member firm, and failed to provide his member firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions.

Tillman's suspension began May 21, 2001, and will conclude at the close of business July 19, 2001. **(NASD Case #C8B010006)**

Kenneth William Wagner (CRD #1583652, Registered Principal, Alpine, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Wagner consented to the described sanction and to the entry of findings that a member firm, acting through Wagner, failed to maintain and preserve accurate books and records. The findings also stated that Wagner prepared and filed false quarterly reports with the NASD knowing that the reports were based on inadequate information and that the information contained in them was probably false. In addition, a member firm, acting through Wagner, failed to give telegraphic notice to the SEC or the NASD that the firm's net capital was less than what was required and that the firm failed to make and keep current its books and records. The NASD also found that Wagner engaged in a course of conduct

with the intent to delay discovery by the NASD of his firm's failure to maintain accurate books and records, its filing of inaccurate reports pursuant to SEC Rule 17a-5, and its operation with insufficient net capital. **(NASD Case #C3B010007)**

Richard Gerald Watkins (CRD #2176818, Registered Principal, Norcross, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years. In light of the financial status of Watkins, no monetary sanction has been imposed. Without admitting or denying the allegations, Watkins consented to the described sanction and to the entry of findings that he engaged in private securities transactions and an outside business activity, without providing prior written notice to, and receiving written approval from, his member firm.

Watkins' suspension began June 4, 2001, and will conclude at the close of business June 3, 2003. **(NASD Case #C07010024)**

Troy Victor Wren (CRD #2542185, Registered Representative, Seaford, New York) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to pay \$42,604.38, plus interest, in restitution to public customers. The fine payment and satisfactory proof of payment of the restitution, plus interest, must be provided before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wren

consented to the described sanctions and to the entry of findings that he engaged in fraudulent sales practices in disregard of his obligation of fair dealing and commercial honor with respect to customers. The NASD found that Wren made a specific price prediction about a speculative security being sold without an adequate, accurate, or reasonable basis in fact. The findings also stated that Wren refused to execute a customer's sell orders.

Wren's suspension began May 21, 2001, and will conclude at the close of business June 19, 2001. **(NASD Case #CAF000043)**

Peter Murphy Wright (CRD #814040, Registered Principal, Vancouver, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wright consented to the described sanctions and to the entry of findings that he recommended that public customers purchase shares of stock, on margin, without having reasonable grounds for believing that such recommendations were suitable for the customers upon the basis of the facts disclosed by the customers as to their other security holdings, financial situation, and needs.

Wright's suspension began May 21, 2001, and will conclude at the close of business May 20, 2002. **(NASD Case #C3B010006)**

Martel Pauline Zeeff (CRD #4140700, Associated Person, Sarasota, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Zeeff consented to the described sanction and to the entry of findings that she provided a member firm with a falsified test score report, incorrectly showing that she had successfully qualified as a general securities representative. **(NASD Case #C07010021)**

Decision Issued

The following decision has been issued by the DBCC or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of May 11, 2001. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Stephen Daniel Carcaterra (CRD #2674226, Registered Representative, Seabright, New Jersey) was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days for engaging in private securities transactions, and barred from association with any NASD member in any capacity for failing to appear for an NASD on-the-record interview. The fine must be paid if Carcaterra seeks to reenter the securities industry. The sanctions were based on findings that Carcaterra engaged in private securities transactions, for compensation, and failed to provide his member firm with prior written notification describing in detail the proposed transaction,

his role therein, and stating whether he received, or might receive, compensation. The findings also stated that Carcaterra failed to receive written approval from his member firm prior to the transactions. In addition, the NASD found that Carcaterra failed to respond to NASD requests to appear for an on-the-record interview.

Carcaterra has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C10000165)**

Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Ronald Duane Brouillette (CRD #1689348, Registered Representative, La Jolla, California) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized trading in the accounts of public customers. The complaint also alleges that Brouillette failed to respond to NASD requests for information. **(NASD Case #C02010015)**

Glenmore F. Diaz (CRD #11015945, Associated Person, Northridge, California) was named as a respondent in an NASD complaint alleging that he received a \$10,283.15 check from

a public customer to purchase bonds on the customer's behalf. The NASD also alleges that Diaz cashed the check and converted the funds for his personal benefit. **(NASD Case #C02010026)**

Joseph Doria (CRD #2356685, Registered Representative, Franklin Square, New York) was named as a respondent in an NASD complaint alleging that he received \$60,000 from a public customer to invest in the stock market and, instead, converted the funds to his own use and benefit, without the customer's prior knowledge, authorization, or consent. **(NASD Case #C10010060)**

Elliott George Charles Downs (CRD #2795169, Registered Representative, Derry, Pennsylvania) was named as a respondent in an NASD complaint alleging that he recommended to public customers the purchase of stock without having a reasonable basis for the recommendations, and in connection with their decisions to purchase stock, Downs made predictions, misrepresentations, and omissions regarding the stock. The complaint also alleges that Downs purchased stock for public customers without their knowledge or authorization, and recommended and implemented a course of trading that was unsuitable for a customer based upon the customer's net worth, financial needs, lack of investment experience, and the customer's use of borrowed funds. Furthermore, the NASD alleges that Downs failed to respond to NASD requests to provide documents and to provide on-the-record testimony. **(NASD Case #C07010031)**

Robert Arthur McDuffie (CRD 3128686, Registered Representative, Port Charlotte,

Florida) was named as a respondent in an NASD complaint alleging that he received a \$2,000 check from a public customer for investment purposes, and instead of making an investment for the customer, he endorsed the check and cashed it, thereby converting the funds to his own use and benefit. The complaint also alleges that McDuffie failed to respond to NASD requests for information. **(NASD Case #C07010022)**

Richard William Stopa (CRD #2368388, Registered Principal, New York, New York) was named as a respondent in an NASD complaint alleging that he executed unauthorized transactions in the accounts of public customers. The complaint also alleges that Stopa improperly charged a five percent markup by selling stock from a public customer's regular account and subsequently purchasing shares of the same stock for the customer's IRA. **(NASD Case #C9B010040)**

VTR Capital, Inc. n.k.a Fairchild Financial Group, Inc. (CRD #21404, New York, New York) and Edward Joseph McCune (CRD #1316826, Registered Principal, Haines City, Florida) were named as respondents in an NASD complaint alleging that the respondents failed to disclose, or caused the firm's registered representatives to fail to disclose, to public customers material information in connection with the offer, sale, or recommendation of common stock including that they had purchased a very large quantity of shelf-registered shares from the selling security holders at a low price and that they were recommending and reselling the shares to the firm's customers at much higher prices. The complaint also alleges that as a result of the respondents' actions, the available public float was increased

substantially, the resales presented an immediate and substantial risk of dilution, and the resales constituted a separate or secondary offering requiring an amended or supplemental prospectus. The complaint alleges that by virtue of this conduct, the firm and McCune knowingly or recklessly employed devices, schemes, or artifices to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business that operated, or would have operated, as a fraud or receipt upon any persons in connection with the purchase or sale of securities. In addition, the complaint alleges that the firm, acting through McCune, failed to file information and documents regarding the proposed terms of the secondary offering of the shares with the NASD. Furthermore, the complaint alleges that the firm, acting through McCune, participated in the secondary offering of the shares in which the underwriting compensation exceeded the maximum permissible under NASD guidelines. **(NASD Case #CAF010010)**

William Scott & Co., LLC (CRD #14979), Anthony Joe Radicone (CRD #2461173, Registered Representative, Staten Island, New York), Yakov (Jack) Shulm Koppel (CRD #2448735, Registered Representative, Monroe, New York) and Vinson Foresta (CRD #2567149, Registered Representative, Edison, New Jersey) were named as respondents in an NASD complaint alleging that the firm, acting through Radicone, Koppel, Foresta, and other individuals,

employed or induced the firm's associated persons to engage in acts and practices in connection with accounts of public customers, including the use of high-pressure telephone sales pitches in an effort to sell low-priced, speculative securities; the use of baseless price and performance predictions; the use of material, false, misleading, and inaccurate representations; the failure to disclose material information including the financial condition of securities; the effecting of unauthorized transactions in the accounts of public customers; and the failure or refusal to sell securities from the accounts of public customers despite their instructions to do so. The complaint also alleges that Radicone advised public customers that in order to purchase securities in an IPO, they had to agree to purchase securities in the secondary market. In addition, the complaint alleges that Radicone performed duties as a registered person while his registration status was inactive due to his failure to timely complete the Regulatory Element of the NASD's Continuing Education Rule. Moreover, the complaint alleges that Koppel accepted payment for IPO securities prior to the effective date of the issuer's registration statement. **(NASD Case #C10010004)**

Thomas Andrew Winnicki, Sr. (CRD #1513199, Registered Representative, Dickson City, Pennsylvania) was named as a respondent in an NASD complaint alleging that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. The complaint also alleges that

Winnicki offered and sold promissory notes to public customers without a reasonable basis for believing that such transactions were suitable for the customers based upon their financial situation, investment objectives, and needs. **(NASD Case #C9A010011)**

Firms Suspended For Failure To Supply Financial Information

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Caribbean Securities LLC
New York, New York
(May 14, 2001)

Clements Company Investment Advisors, Inc.
San Diego, California
(April 20, 2001)

D.E. Frey & Company, Inc.
Denver, Colorado
(May 4, 2001)

Ebondusa.com, Inc.
Greenwich, Connecticut
(May 8, 2001)

Equity Trust Advisors, Inc.
Irvine, California
(May 1, 2001)

I.D.A. Financial Services, Inc.
Costa Mesa, California
(April 20, 2001)

Legacy Trading Co., LLC
Edmond, Texas
(April 20, 2001–May 11, 2001)

Northridge Capital Corporation
Melville, New York
(May 14, 2001)

One Financial Securities, Inc.
Sugar Land, Texas
(April 20, 2001)

Sintra Financial Services, Inc.
San Diego, California
(April 23, 2001)

Travis Morgan Securities, Inc.
Dallas, Texas
(April 30, 2001)

Vonfeldt & Associates, Inc.
Oklahoma City, Oklahoma
(May 8, 2001)

Individuals Barred Pursuant To NASD Rule 9540 Series For Failure To Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)

Bell, Timothy E.
Wintersville, Ohio
(May 2, 2001)

Coleman, Monica L.
Pasadena, Maryland
(May 1, 2001)

Crookshank, Richard
Las Vegas, Nevada
(May 15, 2001)

Lewis, Gregory
Milwaukee, Wisconsin
(May 2, 2001)

Taylor, Phuong Binh
Seattle, Washington
(April 18, 2001)

Individuals Suspended Pursuant To NASD Rule 9540 Series For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)

Bevacqua, Thomas P.
Brick, New Jersey
(April 24, 2001)

Cavanaugh, David. B.
Provo, Utah
(April 30, 2001)

Heyne, Donald L.
Omaha, Nebraska
(April 27, 2001)

Kesslak, Anthony J.
Stephens City, Virginia
(May 2, 2001)

Moran, Timothy J.
Buffalo, New York
(April 24, 2001)

Reyes-Rivera, Dilean
Carolina, Puerto Rico
(April 19, 2001)

Rodriguez, Claus H.
Union City, New Jersey
(April 27, 2001)

Sanders, Mary L.
Mishawaka, Indiana
(May 4, 2001)

Winer, Maico I.
N. Miami Beach, Florida
(April 23, 2001)

Individuals Suspended Pursuant To NASD Rule Series 9510 For Failure To Comply With An Arbitration Award Or A Settlement Agreement

The date the registration was suspended is included after the entry. If the individual has complied, the listing also includes the date the suspension was lifted.

Chambers, Eton B.
Roosevelt Island, New York
(April 17, 2001)

Feder, Jacob
Brooklyn, New York
(April 16, 2001–April 20, 2001)

NASD Regulation Hearing Panel Orders Josephthal & Co, Inc., Two Execs To Pay \$3.3 Million In Fines And Restitution For Fraud And Unfair Dealing With Customers

An NASD Regulation Hearing Panel has ordered Josephthal & Co., Inc. of New York City and its two top executives to pay \$3.3 million in fines, restitution, and interest to more than 360 customers defrauded in a scheme using what the Panel called “tactics typically associated with ‘boiler room’ operations.” The Panel ruled Josephthal violated federal securities laws and NASD conduct rules during a massive sales effort in 1996 aimed at selling the firm’s position of approximately one million common shares of VictorMaxx Technologies, Inc.

Josephthal and its then-CEO, Daniel D. Purjes, were ordered to pay close to \$1.5 million in restitution plus interest, currently more than \$750,000, to defrauded customers. Josephthal, Purjes, and Josephthal’s President, Paul H. Fitzgerald, also were fined \$500,000, \$500,000, and

\$100,000, respectively. Together with the accrued interest on restitution, which will also be paid to investors, the total monetary sanctions exceed \$3.3 million.

Purjes was suspended in all capacities until he requalifies as a General Securities Representative and a General Securities Principal. If he fails to requalify within two years from the date the decision becomes final, his suspension will be converted into a permanent bar from the industry.

The Hearing Panel said Josephthal engaged in the massive sales effort aimed at selling its VictorMaxx position in May 1996. As the underwriter of VictorMaxx’s initial public offering and dominant market maker for the stock, Josephthal supported the stock from August 1995 until the beginning of May 1996 by continuing to buy up available amounts in the marketplace. By mid-May 1996, however, the firm had suffered actual losses trading the stock of more than \$2.5 million, with another \$1.3 million in unrealized losses on huge positions held by the firm and its holding company.

In an effort to cut its losses, Josephthal—acting through Purjes and Fitzgerald—decided to sell the position to the firm’s customers. However, the firm’s representatives had shown little interest in retailing the stock until mid-May. To induce the sales force to move the stock, Purjes and Fitzgerald made the stock available to them at a quarter-point below the then-current bid of \$1.75. This “special” resulted in gross commissions of about 29 percent of an investor’s total purchase price for the stock—substantially more than the sales force stood to make selling any other product. The result of this

“selling blitz” was “immediate and dramatic” according to the Panel, and created a “stampede” on the part of the sales force. As a result, from May 17 to May 31, 1996, Josephthal’s sales force aggressively recommended VictorMaxx stock to its customers using “tactics typically associated with ‘boiler room’ operations,” including baseless price predictions, failing to disclose their huge compensation arrangement, unauthorized trades, and other sales practice abuses. In fact, confirmations received by customers indicated that the stock was being sold without any markup.

During these 10 business days, Josephthal brokers sold almost one million shares in over 400 transactions at an average price of \$2.10 per share. Sales during this 10-day effort represented nearly 36 percent of the tradable shares of the common stock. Josephthal remained a market maker in the security throughout the fraudulent sales effort. After exhausting its entire inventory, Josephthal’s sales force continued selling, going short another 277,000 shares, which it covered with shares held by Josephthal’s holding company.

Shortly after Josephthal sold its position, the market price of VictorMaxx tumbled. Within a month, it was below \$1, and continued to fall even more as additional time passed. On October 24, 1996, the stock failed to meet minimum listing criteria and was delisted from the Nasdaq SmallCap Market. Thus, an investor who purchased during the May sales effort and held onto that stock for no more than 45 days would have incurred more than a 50 percent loss. The Panel found that Josephthal, Purjes, and

Fitzgerald violated their obligation of fair dealing by neglecting to disclose to their customers that they planned to quickly dispose of their losing inventory position through a massive retail sales effort.

NASD Regulation did not allege that VictorMaxx knew that Josephthal was selling off its stock in the marketplace or engaged in any wrongdoing.

In assessing the sanctions it imposed, the Hearing Panel expressly found that the Josephthal’s, Purjes’, and Fitzgerald’s misconduct was egregious, resulting in considerable harm to more than 360 individual investors. The seriousness of the violations was compounded by false testimony given by Purjes and Fitzgerald at the hearing concerning, among other things, their knowledge of and involvement in the fraud. Moreover, just days before the start of the VictorMaxx sales effort, Josephthal and Purjes had settled with the NASD a case involving similar violations. The Panel also found that Josephthal’s disciplinary history and Purjes’ failure to comply with promises he made in connection with the earlier settlement reflected “a grave disregard for their compliance obligations, which warrant[ed] the imposition of more severe sanctions than the maximum suggested by the [NASD Sanction] Guideline[s].”

Josephthal was ordered in the most recent decision to hire a qualified independent consultant, approved by NASD Regulation, to review the firm’s policies, practices, and procedures with particular attention to its procedures regarding compliance with Regulation M, the federal

anti-manipulation statute, and to adopt and implement any proposed changes.

In this instance, the complaint against Josephthal was filed in December of 1999. In general, after a complaint is filed and served, a Hearing Panel, appointed by the Chief Hearing Officer, conducts the hearing(s) and issues a decision. Hearings in formal disciplinary proceedings are held before a three-member Hearing Panel. The Panel is chaired by a professional Hearing Officer from Office of Hearing Officers, an independent office within NASD Regulation, which is responsible for adjudicating disciplinary proceedings. The Hearing Officer ensures that the proceedings are conducted fairly and efficiently. Respondents have rights of appeal to the National Adjudicatory Council (NAC), then to the U.S. Securities and Exchange Commission (SEC), and then to an appropriate U.S. Court of Appeals.

Unless the matter is appealed to the NAC, or called for review by the NAC, the Hearing Panel’s decision becomes final after 45 days. The sanctions imposed by the Hearing Panel are not effective during this period. If the decision is appealed or called for review, the sanctions may be increased, decreased, modified, or reversed. **(NASD Case # C3A990071)**